

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ROCKY A. LEEPER,

Plaintiff,

vs.

No. CIV-12-0028 LH/SMV

**CITY OF TRUTH OR CONSEQUENCES,
KEVIN MARONE, and
JOHN DOES,**

Defendants.

ORDER SETTING SETTLEMENT CONFERENCE

THIS MATTER is before the Court on the Status Conference, held on April 4, 2012. To facilitate a final disposition of this case, a mandatory Settlement Conference will be conducted in accordance with Rule 16(a)(5) of the Federal Rules of Civil Procedure. The conference will be held on **May 15, 2012, at 9:00 a.m.** in the Doña Ana Courtroom on the third floor of the United States Courthouse at 100 Church Street in Las Cruces, New Mexico.

The parties or a designated representative, other than counsel of record, with full authority to resolve the case, must attend in person. Counsel who will try the case must also attend in person.

No later than **Tuesday, May 1, 2012**, Plaintiff shall serve on Defendants a letter setting forth at least the following information: (a) a brief summary of the evidence and legal principles that Plaintiff assert will allow him to establish liability; (b) a brief explanation of why damages or other relief would be warranted; (c) an itemization of the principles supporting those damages; and (d) a

settlement demand.¹ No later than **Friday, May 4, 2012**, Defendants shall serve on Plaintiff a letter that sets forth at least the following information: (a) any points in Plaintiff's letter with which the defense agrees; (b) any points in Plaintiff's letter with which the defense disagrees, with references to supporting evidence and legal principles; and (c) a counteroffer.² If a release is contemplated, defense counsel shall include a proposed form of release with the letter. Each of these letters typically should be five pages or fewer, and counsel must ensure that each party reads the opposing party's letter before the Settlement Conference. If the case does not settle, Plaintiff shall provide copies of these letters to the Court no later than **5:00 p.m. on Tuesday, May 8, 2012**.

No later than **5:00 p.m. on Tuesday, May 8, 2012**, each party must provide the Court, in confidence, a concise position statement (typically no more than ten pages) containing an analysis of the strengths and weaknesses of its case. Position statements must be submitted to the Court by e-mail at **VidmarChambers@nmcourt.fed.us**.

Furthermore, if any party has in its possession any video or audio recordings of the incident upon which this action is based, that party must submit a copy of the recording to the Court no later than **5:00 p.m. on Tuesday, May 8, 2012**.

The Settlement Conference may not be vacated or rescheduled except upon motion for good cause shown. Any motion to vacate or reschedule the Settlement Conference shall provide the Court with sufficient notice to ensure that other matters may be scheduled in the time allotted for the Settlement Conference.

¹ If the parties have engaged in settlement negotiations, Plaintiff's demand should be lower than Plaintiff's most recent demand.

² If the parties have engaged in settlement negotiations, Defendants' counteroffer should be higher than Defendants' most recent counteroffer.

IT IS THEREFORE ORDERED as follows:

**Plaintiff's letter and settlement demand
due to Defendants:**

May 1, 2012

Defendants' letter and counteroffer due to Plaintiff:

May 4, 2012

**Plaintiff provide copies of settlement letters
to the Court by:**

May 8, 2012, by 5:00 p.m.

**Plaintiff's confidential position statement due to
the Court:**

May 8, 2012, by 5:00 p.m.

**Defendants' confidential position statement due
to the Court:**

May 8, 2012, by 5:00 p.m.

Settlement Conference

May 15, 2012, at 9:00 a.m.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge